

Frequently Asked Questions

Implementation of SHB 2149: Personal Property Amnesty

Substitute House Bill (SHB) 2149, *“concerning personal property tax assessment administration, authorizing waiver of penalties and interest under specified circumstances,”* passed in the 2012 regular Legislative Session and became effective on March 20, 2012. This new law provides county administrations the opportunity to offer businesses an incentive to report previously unreported personal property without penalties or interest. In response to several questions we have received from county officials, we are providing the following Q&A on the implementation of the legislation.

Question: Generally, what does SHB 2149 do?

Answer: All real and personal property is subject to property tax each year based on its value, unless a specific exemption is provided by law. Personal property is self-reported to each county assessor by business owners, and if any person or corporation fails to file a personal property listing by April 30 of each year, filing penalties of up to 25 percent per year apply.

SHB 2149 amends RCW 84.40.130 and creates a one-time amnesty for late filing penalties for business owners who have not previously reported or filed a personal property listing form with the county assessor.

Question: Who may authorize implementation of the amnesty program provided in SHB 2149?

Answer: Only the county legislative authority may authorize implementation of the amnesty program. Once approved, the assessor will receive applications and make determinations regarding waiving penalties.

Question: What is the effective date of SHB 2149?

Answer: The effective date is March 20, 2012, the date the Governor signed the legislation.

Question: Can either the assessor or the county legislative authority pick and choose which taxpayers can have amnesty?

Answer: No. If a county legislative authority authorizes the assessor to waive penalties under SHB 2149, and a taxpayer complies with the requirements of the amnesty program, then the taxpayer is entitled to the requested relief.

Question: For which periods may the county legislative authority grant amnesty?

Answer: Late filing penalties may be waived for assessment years 2011, and prior years (2010 and 2009, too, if applicable), for a person or corporation that failed or refused to deliver to the assessor a list of taxable personal property for those years.

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Question: How must the county legislative authority approval take place: ordinance or resolution?

Answer: The legislation is silent on this, and the specific approval process may differ between various jurisdictions. We suggest each county considering the provisions in SHB 2149 review their local laws and/or consult the local prosecuting attorney for specific guidance in this matter.

Question: Does the county legislative authority have the flexibility to pick or choose which back years' listing penalties may be waived?

Answer: No. If the county legislative authority authorizes the assessor to waive penalties under SHB 2149, then amnesty must be allowed for any years for which a property owner complies with the requirements in the bill.

Question: Is the county assessor required to advertise the amnesty available under SHB 2149?

Answer: The legislation is silent on this matter. The county may use its discretion on how to publicize the relief provided in SHB 2149.

Question: So how does a business or property owner apply for penalties to be waived under SHB 2149, and when would taxes be due?

Answer: To qualify for a waiver of penalties under SHB 2149, a property owner who has previously failed to report their personal property assets to the county assessor, must file with the assessor a correct list and statement of taxable personal property and a complete application for a penalty waiver on or before July 1, 2012.

In order to receive a waiver of penalties, full payment of the tax must then be made to the county treasurer by September 1, 2012, on the entire balance due on all tax liabilities for the years for which the penalty waiver was requested.

Question: How many years can the assessor go back for collection and how many years are penalties waived under SHB 2149?

Answer: Under the law, the assessor can add omitted personal property to the assessment rolls for three years, plus the current assessment year in which the omission is discovered. Additionally, when there has been a failure to file a personal property listing, the assessor must apply a 25 percent penalty for each of three assessment years in which the personal property was not listed. These provisions were not changed by SHB 2149.

SHB 2149 amends RCW 84.40.130, so that penalties for the three prior assessment years (2011, 2010, and 2009) can be waived if the requirements of the amnesty program are met. However, the taxpayer must still remit full payment for the years contained in the application for amnesty (up to three years taxes).

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Question: The legislation says the business owner must apply to receive the amnesty. What application form needs to be used for the waiver of penalties in SHB 2149 and will the Department provide that form?

Answer: The provisions of SHB 2149 specify the application is “in the form and manner prescribed by the assessor,” and each county implementing the amnesty program may create their own form. However, the Department will be available to support counties in the creation of forms if requested.

Question: What if the assessor has questions about a personal property listing or believes they need to check the information provided on the personal property listing?

Answer: SHB 2149 specifically contains a provision allowing the assessor to verify the provided listing. The assessor has the statutory authority and obligation to add omitted personal property when discovered, per RCW 84.40.080. This applies even if the taxpayer provided a listing under the amnesty program, and the assessor discovers omitted personal property. Specifically, the assessor “shall” add the amount of tax to the assessment rolls for unreported omitted personal property, which would also include the necessary penalties provided in RCW 84.40.130.

Question: Even though penalties are waived, what if a property owner thinks the amount of tax paid was too much?

Answer: SHB 2149 specifies that the taxpayers receiving penalty relief under the bill may not seek a refund or otherwise challenge the amount of tax liability.

Question: What if the property owner wants to appeal the assessed value?

Answer: The language in the amnesty legislation is silent regarding appeals of valuation of newly listed personal property under this program. While section 3 (B) (ii) (b) says that a taxpayer may not seek a refund or otherwise challenge the amount of any tax liability paid under the amnesty program, the language does not appear to prohibit challenging the assessed value of the property being added to the assessment roll.

Question: Does the amnesty program provided in SHB 2149 apply if a business has already been filing a personal property listing, but realize that they have not reported all their taxable assets?

Answer: The amnesty provided by SHB 2149 applies to those who have not previously filed a personal property listing. In the event a business or property owner realizes they have not listed all their assets, those assets would be omitted property under RCW 84.40.080 and need to be added to the assessment rolls. Likewise, if the assessor discovers unreported personal property, that property would need to be added to the assessment rolls for up to three years. In either case, payment of tax for property omitted from a previously filed personal property listing is outside of the amnesty provisions of SHB 2149 and would be subject to RCW 84.40.085.

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Question: Can a property owner who has not been filing a personal property listing, request amnesty in a county that has not implemented the amnesty program?

Answer: No. Only those counties where the county legislative authority has authorized the assessor to waive penalties can the amnesty provision of SHB 2149 take effect. Neither the county legislative authority nor the assessor may arbitrarily pick and choose which businesses are eligible. However, a county legislative authority that initially decided not to offer the amnesty may later authorize a countywide amnesty program under SHB 2149 so long as it is before July 1, 2012.

Question: Can the county assessor implement a personal property amnesty program on their own, even if the county legislative authority does not?

Answer: No. Existing statutory language only allows the assessor to waive penalties due to “reasonable cause and not due to willful neglect,” no other statutory authority exists for the assessor to waive late filing penalties on his or her own authority. SHB 2149 allows the county legislative authority to authorize the assessor to waive penalties when a taxpayer has previously failed or refused to deliver to the assessor a list of taxable personal property and complies with all the provisions of the amnesty program.

Question: May the county legislative authority offer the amnesty program under SHB 2149 next year or any subsequent year from now on?

Answer: No. SHB 2149 is only a onetime occurrence and the deadline for taxpayers making application for amnesty is July 1, 2012.

Question: Where can I obtain a copy of SHB 2149?

Answer: A full copy of the bill is available at: <http://apps.leg.wa.gov/documents/billdocs/2011-12/Pdf/Bills/Session%20Law%202012/2149-S.SL.pdf>

Question: Should the county track the value of personal property added to the assessment rolls, amount of taxes collected, and amount of penalties waived under this legislation?

Answer: Although SHB 2149 does not require this, the Department of Revenue would like to know how much value is added as a result of amnesty, the amount of tax collections attributed to this program, and from the amount of penalties that are waived.